

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7376

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARK ALLEN JACKSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CR-99-421)

Submitted: February 9, 2005

Decided: February 14, 2005

Before WILKINSON, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mark Allen Jackson, Appellant Pro Se. William Neil Hammerstrom, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Mark Allen Jackson seeks to appeal the district court's order characterizing his motion filed under Fed. R. Civ. P. 60(b), as an unauthorized and untimely motion under 28 U.S.C. § 2255 (2000), and dismissing it. An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); see also Reid v. Angelone, 369 F.3d 363, 367-69 (4th Cir. 2004). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Jackson has not made the requisite showing. Moreover, to the extent Jackson's notice of appeal is construed as a motion to file a successive § 2255 motion, we deny the motion without prejudice because Jackson has not made the requisite showing. See 28 U.S.C. § 2244 (2000), United States v. Winestock, 340 F.3d 200, 208 (4th Cir.), cert. denied, 540 U.S. 995 (2003). Accordingly, we deny a certificate of appealability and

dismiss the appeal. We grant Jackson's motion to seal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED